

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

DOCKET NO. 3:04-cr-267-FDW

UNITED STATES OF AMERICA

vs.

JEFFREY A. HOPKINS,

Defendant.

ORDER

THIS MATTER comes now before the Court upon Defendant's Motion "to rectify incorrect application of the sentencing guidelines and the government's failure to fulfill its post sentencing legal obligation" (Doc. No. 20). The time for noting a direct appeal has long since expired. Thus, the Court hereby GIVES NOTICE under Castro v. United States, 540 U.S. 375 (2003), that it intends to recharacterize Defendant's Motion as one to Vacate, Correct, or Set Aside Sentence pursuant to 28 U.S.C. § 2255. This recharacterization means that "any subsequent § 2255 motion will be subject to the restrictions on 'second or successive' motions." Castro, 540 U.S. at 383. If Defendant objects to this recharacterization, he has thirty (30) days, **on or before May 27, 2009**, "to withdraw the motion or amend it so that it contains *all* the § 2255 claims he believes he has." Id. at 383 (emphasis added); see also United States v. Blackstock, 513 F.3d 128 (4th Cir. 2008). The Clerk of Court is directed to forward copies of this order to Defendant and the United States Attorneys' Office.

IT IS SO ORDERED.

Signed: April 24, 2009



Frank D. Whitney
United States District Judge

